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been the intention of the Legislature that a landlord who has secured an order for the eviction of his tenant should enter into the possession of the property as soon as he is put in possession thereof. On the other hand, the Legislature appears to have contemplated that the landlord should remain in possession of the property until and unless the tenant is able to satisfy the Court that the landlord has not occupied the property for a continuous period of twelve months from the date of obtaining possession thereof. In other words, the right of a tenant to repossess the shop from which he has been evicted arises only if he satisfies the Court that the landlord has failed to occupy it for a continuous period of twelve months from the date of obtaining possession thereof. That period of twelve months has obviously not expired in the present case. It would expire on the 11th October, 1956. As the landlord actually occupied the shop on the 21st January, 1956, and as he has been in continuous possession of the shop ever since, it seems to me that the tenant's prayer for possession must be summarily rejected.

For these reasons I would accept the petition, set aside the order of the Courts below and dismiss the tenant's application with costs. Ordered accordingly.

*B.R.T.*

APPELLATE CIVIL.

*Before D. Falshaw and I.D. Dua, JJ.*  
RULIA RAM,—Appellant.

*versus*

CHAUDHRI MULTAN SINGH AND OTHERS,—Respondents.

First appeal from Order No. 2-E of 1959.

*Representation of the People Act (XLIII of 1951)—Section 116-A—Appeal under—Scope and extent of—Section 123(1)—Bribery—Charity or gift—Whether amounts*

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*to bribery—Section 123(4)—Onus of proof—On whom lies—Section 100 (1)(d)(iv)—Material effect on election—Whether necessary to be proved—Setting aside of an election—Principles to be borne in mind—Extent of proof required.*

*Held*, that the right of appeal conferred by section 116-A of the Representation of the People Act, 1951, is not more restricted or limited than the right of appeal, which exists from original decrees passed by civil courts under the Code of Civil Procedure, indeed, this section itself clearly confers on the High Court the same powers, jurisdiction and authority which it exercises in its Civil appellate jurisdiction, on appeals against original decrees passed by civil Courts.

*Held*, that *bona fide* charity or gift may be permissible but if charitable donation or gift takes a subtle form of bribery or if bribery is sought to be concealed in the guise of charity, then it is not possible to consider it to be unobjectionable. Whether or not a charity or a gift is innocent, the time and the circumstances have a very important bearing. Charities and gifts to voters at the time of elections invite strong suspicions and candidates would be well-advised to avoid them at election times. Merely because bribery has not borne fruit is wholly immaterial as even an attempt to bribe falls within the mischief.

*Held*, that the onus of establishing the falsity of the statements or the belief or want of belief, as the case may be, is on the person who seeks to establish the commission of the corrupt practice, contained in section 123(4) of the Representation of the People Act. If the petitioner's evidence is not trustworthy, the mere denial contained in the written statement of the respondent would hardly be sufficient to establish that the statements were false to his knowledge or that he did not believe them to be true.

*Held*, that in order to succeed on the basis of the allegation that the polling was started later than and closed earlier than the prescribed times, it is necessary to establish that on account of this irregularity or illegality the result of the election has been materially affected.

*Held*, that it is well-settled that an election is not to be lightly set aside. It is true that purity of election is

the first priority in all democratic states, but at the same time it must not be forgotten that setting aside of elections affects the whole constituency; thus before an election is set aside, the tribunal must be fully satisfied that the impugned election has actually been affected by the alleged corrupt practices. Suspicions or surmises or mere possibilities are not enough. Although *Mens rea* or criminal intention is not necessary to establish under the Representation of the People Act relating to corrupt practices but it does not mean that the charges of corrupt practices can be held established without being proved beyond the possibility of a reasonable doubt. The test in weighing the evidence led in such cases is generally similar to the one applied in criminal trials.

*First Appeal from Order of Shri Badri Parshad Puri, Member, Election Tribunal, Karnal, dated 6th March, 1959, dismissing the petition.*

D. C. GUPTA, for Appellant.

D. N. AGGARWAL, R. N. AGGARWAL, AND ABNASH CHANDAR, for Respondents.

#### JUDGMENT

Dua, J.

DUA, J.—This appeal which is directed against the order of the Election Tribunal, Karnal, dated 6th of March, 1959, dismissing the election petition filed by Shri Rulia Ram defeated candidate relates to the election to the Punjab Legislative Assembly (Vidhan Sabha) from Gharaunda Constituency held in 1957. There was a triangular contest between Chaudhri Multan Singh, the successful candidate, Rulia Ram, petitioner and Puran Singh, respondent No. 2, and Chaudhri Multan Singh, the successful candidate, won the election by a very narrow margin of votes as against Shri Rulia Ram; Multan Singh having secured 16,943 votes and Rulia Ram 16,719. Polling in the Constituency took place on 24th of

February, 1957, and votes were counted on the following day, i.e., 25th of February, 1957, on which date the result was also declared.

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Shri Rulia Ram, one of the defeated candidates, feeling aggrieved, filed the present election petition challenging the election of Chaudhri Multan Singh on a number of grounds giving rise to the following 24 issues :—

- (1) Did respondent No. 1, himself, and Arjan, Risala and Ranjit Singh, publish statements contained in poster 'A' and 'AI' ?
- (2) If issue No. 1 is proved, whether the statements contained in annexure 'A' and 'AI' are false, which respondent No. 1, believes to be false and does not believe to be true ?
- (3) Whether the statements referred to above relate to the personal character and conduct of the petitioner ?
- (4) Whether respondent No. 1 published these posters on 20th February, 1957, and the same were distributed on the same day in the morning at village Kohand by respondent No. 1 and by Risala ?
- (5) Whether Shri Risala distributed and pasted the above posters in village Kohand at some houses and Chaupal in the morning and in the evening on the same day in village Sheikhupura. ?
- (6) Did Ranjit Singh, on 20th February, 1957, distribute and paste these posters in villages Kemla Pundri and Alipur

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Khalsa in the morning, noon and evening respectively ?

- (7) Did respondent No. 1 and Shri Arjan on 21st February, 1957, distribute and paste in villages Balla, Gagsina and Bal these posters in the morning, in the noon and in the evening respectively and whether that has materially affected the result of the election ?
- (8) Did respondent No. 1 and Shri Ranjit Singh distribute and paste the posters in villages Padha and Gharaunda on 22nd February, 1957, in the morning and in the evening respectively ?
- (9) Did respondent No. 1 hire or procure on payment tongas of Mulkh Raj and Daryai Lal of Gharaunda for carrying the voters from their residence to the polling stations ?
- (10) Did respondent No. 2 carry any voter for the same purpose in the tongas mentioned above ?
- (11) Whether respondent No. 2 on 18th February, 1957, gifted and paid gratification of Rs. 200 to the Bairagi caste voters of village Goli through Chandgi Ram for construction of a Chaupal ? If so, whether the same has materially affected the result of the election ?
- (12) Whether the polling at booth No. 20 could not be started till 9.30 a.m. at village Arainpura ? If so, has it materially affected the result of the election ?

- (13) Whether at booth Nos. 28 and 29 at village Balla the polling could not be started till 10 a.m. and at booth No. 30 till 9 a.m. and at booth No. 31 till 9.25 a.m. ? If so, has it materially affected the result of the election ?
- (14) Whether the polling was stopped at 3.30 p.m. at booths Nos. 28 and 29, at 3.45 p.m. at booths Nos. 30 and 31 at village Balla ? If so, has it materially affected the result of the election ?
- (15) Whether the polling at village Gagsina was started at 10 a.m. and stopped at 3.45 p.m. at booth No. 36 and whether the polling at booth No. 37 of the same village was started at 9.30 a.m. ? If so, has it materially affected the result of the election ?
- (16) Whether the Polling Officers on polling stations Nos. 28 and 29 in village Balla stopped the polling at 3.30 p.m. and on booth Nos. 30 and 31 at 3.45 p.m. and if it is proved, has it materially affected the result of the election ?
- (17) Did Shri Mul Chand Jain, Ex-Minister, meet the Polling Officers and held out promises and favours to the voters, if they would vote in favour of respondent No. 1, and exercise undue influence ? If so, has it materially affected the result of the election ?
- (18) Whether Shri Mul Chand Jain appealed to the Jain Brotherhood of village Balla in a general meeting at polling stations Nos. 28 and 31 on 23rd February, 1957,

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to caste their votes in favour of respondent No. 1 and was respondent No. 1 also present in the meeting and actively connived at the unauthorised manner of canvassing ? If it is proved, whether the same has materially affected the result of the election ?

- (19) Did respondent No. 1 get persons to impersonate for some dead persons mentioned in annexure 'B' ?
- (20) Did respondent No. 1 and Shri Ranjit Singh get other persons to impersonate for Rati Ram, Dalip Singh and Hari Singh ?
- (21) If issues Nos. 19 and 20 are proved, whether it has materially affected the result of the election ?
- (22) Is Shri Shiv Ram, M.A. a public servant within the meaning of Section 123(7) of Representation of the People Act ?
- (23) If issue No. 22 is proved in the affirmative, then whether Shri Shiv Ram, M.A., presided over the meeting in village Gharaunda on 20th February, 1957, and on 21st February, 1957, in village Kalaram and the same were attended by respondent No. 1 and addressed both by Shri Shiv Ram, M.A., and respondent No. 1 ?
- (24) If issue No. 23 is proved, whether it has materially affected the result of the election ?

The learned Tribunal decided all the issues against the petitioner and upheld the election. Broadly

speaking, the allegations in the election petition related to the following charges :—

- (1) Publication of statements relating to the personal character and conduct of the petitioner.
- (2) Hiring or procuring of vehicles for the conveyance of voters to polling stations.
- (3) Giving bribe to Bairagi voters with the object of inducing them to vote for Chaudhri Multan Singh.
- (4) Late starting and early closure of polling at some of the polling stations in contravention of the provisions of the Representation of the People Act, 1951.
- (5) Undue influence by Shri Mool Chand Jain, Minister P.W.D., Punjab, for securing success of Multan Singh.
- (6) Impersonation for admittedly dead persons and for some others.
- (7) Employment of Shri Shiv Ram, M.A., a public servant to canvass for Multan Singh, etc.

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On appeal, the learned counsel for Shri Rulia Ram has taken us through the record and has reagitated only the first four grounds mentioned above. With respect to the charge relating to publication of false statements of fact relating to personal character or conduct of Shri Rulia Ram, along with the election petition, Annexures 'A' and 'A1' were attached by Shri Rulia Ram. The main subject-matter of both the annexure is the same but in Annexure 'A' a photograph purporting to be of Shri Rulia Ram with a lady, in black ink appears



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at the top, and in the righthand bottom corner the name of the press is stated to be "Ala Press Chandni Chowk, Delhi", whereas in Annexure 'AI' a similar photograph at the top is shown in red ink and at the bottom are printed the following words in bold letters : "Pesh karda Multan Singh". In the left hand bottom corner the names of two printing presses are printed : (i) 'Sansar Electric Press, Karnal', and (ii) 'Nakal Ala Press Chandni Chowk, Delhi'. So far as the subject matter of these two posters is concerned, at the top is stated "*Shri Lala ji ki kali kartooten*" and below the photographs are the following 16 verses purporting to describe and convey the antecedents of *Lala ji* :—

*"1947 tak Hindu Sabhai mauqa pa kar  
Congress apnai.  
Mar kat main khub dhan loota aish-o-ishrit  
ka gulshan loota.  
Bania, Brahman, Balmiki, Nai jo phansa us  
ki hajamat banai.  
Bakhshe nahin Chamar aur Saini jiski  
phansi hajam kar laini.  
Mandir, Masjid, Chaupal, Chaubare gande  
kiye sthan sare.  
Piara bana ek Brahman loota karja liya aur  
phir gal ghoonta.  
Is per bhi kuchh saber na aya zulam-o-  
sitam kar door bhagaya.  
Chhore nahin sage aur piarey un ko bhi  
dikhliye nazare.  
Akhar qist kara chutkara daulat ka pakra  
sahara.  
Karmaohh farm rang rangili dam mohabat  
phansi chambeli.  
Pichha kiya Jagadhri ja kar jan bachai hath  
jor kar.  
Is per bhi saber na aya sath beth kar photo  
khichawaya.*

*Thik batao kuchh samajh main aiaya hae  
Lala bhai.*

*Kali kartooten dhek laina is per vote  
Congress ko dena.*

*Chhori nahin sarkar bichari 12th March,  
1956, hui girftari.*

*Zamanat de tab jan bachi bhigi billi ghar  
ko ai.*

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The counsel for the appellant has taken us through the evidence of Hukam Chand P. W. 4, Proprietor of the Sansar Electric Press, Karnal, for the purpose of showing that he had printed the poster, Exhibit P.D., at the instance of Chudhri Multan Singh on 19th of February, 1957. (Then His Lordship discussed the evidence and continued).

The counsel for the respondent has, in connection with the question of appreciation of oral evidence, so far as the Court of appeal is concerned, referred us to *Shri Baru Ram v. Smt. Prasanni and others* (1), where Gajendragadkar, J., has at page 96 emphasised that in dealing with an appeal under section 116A of the Representation of the People Act High Courts should normally attach importance to the findings of fact recorded by the tribunal when the said findings rest solely on the appreciation of oral evidence. This rule of practice which has been emphasised in this judgement, was also adumbrated in *Sarju Pershad Ramdeo Sahu v. Jwaleshawar Pratap Narain Singh etc.*, (2) by Mukherjee, J., while dealing with appeals under the code of Civil Procedure. So observed his Lordship "Where the decision on a question of fact depends upon the appreciation of the oral evidence, the appellate Court has to bear in mind that it has not the advantage which the trial Judge

(1) A.I.R. 1959 S.C. 93

(2) A.I.R. 1951 S.C. 120

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had in having the witnesses before him and of observing the manner in which they deposed in Court. This certainly does not mean that when an appeal lies on facts, the appellate Court is not competent to reverse a finding of fact arrived at by the trial Judge. The rule is— and it is nothing more than a rule of practice— that when there is conflict of oral evidence of the parties on any matter in issue and the decision hinges upon the credibility of the witnesses, then unless there is some special feature about the evidence of a particular witness which has escaped the trial Judge's notice or there is a sufficient balance of improbability to displace his opinion as to where the credibility lies, the appellate Court should not interfere with the finding of the trial Judges on a question of fact". For this observation reference was made to *W. C. Macdonald, Registered v. Fred Lattmer and others* (1). The right of appeal conferred by section 116A of the Representation of the People Act, 1951, is not more restricted or limited than the right of appeal, which exists from original decrees passed by civil Courts under the Code of Civil Procedure ; indeed, this section itself clearly confers on the High Court the same powers, jurisdiction and authority which it exercises in its Civil appellate jurisdiction, on appeals against original decrees passed by civil Courts. It is thus obvious that the rule laid down in *Shri Baru Ram alias Basti Ram v. Smt. Prasanni and others* (2), does not place any greater restriction on this Court while hearing appeals under section 116A of the Representation of the People Act, than what exists in its ordinary civil appellate jurisdiction. However, after weighing the entire evidence led in this case on the point of publication of the posters in question, in my view, no sufficient

(1) A.I.R. 1929 P.C. 15

(2) A. I. R. 1959 S.C. 93

ground has been shown to us by the counsel for differing from the final conclusion of the learned Tribunal on the credibility of the petitioner's witnesses. In my opinion, the petitioner has completely failed to establish publication of the alleged posters by the respondent or his agent or with their consent, by unimpeachable and trustworthy evidence. In this connection it would not be out of place to state that the petitioner's witnesses who have deposed on this point largely hail from the villages which are his principal stronghold and from where overwhelming majority of votes were secured by him. It is contended by the counsel for the respondent and, in my view, not without some plausibility, that from this area it was not at all difficult for the petitioner-appellant to secure witnesses to say whatever he desired. It has also been contended by the counsel for the respondent that there was no contradiction to the contents of these posters, issued by the petitioner. This failure to contradict the damaging statements of fact contained in the posters, according to the counsel show that in all probability no such statements were at all published. It is true that in some cases such failure to issue a contradiction has been taken into account in determining the probability of the publication of such false statements. In the present case, however, the petitioner has explained his omission to issue such a contradiction by stating that he was much too busy with his election campaign. This explanation may or may not be quite true and convincing. It, however, does appear to me that if the publication of the posters in question was not very extensive and wide-spread, and if it was not likely or calculated to effectively prejudice Shri Rulia Ram's prospect of election, then he might well have abstained from wasting his time, in issuing a contradiction; besides, such a contradiction might also

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have been considered likely to provide greater publicity to the original false statements, by bringing them to the notice of a larger number of people, including even those voters who may not have an occasion to read the original posters. I have made this observation because on the present record it does appear, that even according to the petitioners own evidence, these posters were not very widely circulated or published. But be that as it may, for the reasons discussed above, I am clearly of the view that the publication of the posters, as alleged, has not been established on this record. I am further of the opinion that the petitioner-appellant has not been able to show that the statements of fact, contained in those posters, are false and that the respondent or his agent believed them to be false or did not believe them to be true. It has not been disputed that the onus of establishing the falsity of the statements or the the belief or want of belief, as the case may be, is on the person who seeks to establish the commission of the corrupt practice contained in section 123(4) of the Representation of the People Act. It has, however, been contended by Mr. Dalip Chand Gupta, the learned Advocate for the appellant, that Chaudhri Multan Singh had actually denied all knowledge of the posters, in his written statement, but in his deposition as a witness he has, on the contrary, stated that all the facts entered in the posters, Exhibits P.K. and P.L., are true to his knowledge and apply to Shri Rulia Ram, petitioner; he has also stated that these facts were in his personal knowledge prior to the election in dispute. From this the counsel wants us to conclude, that Chaudhri Multan Singh is capable of making statements to suit the occasion, without caring whether they are true or false and, therefore, we should conclude that the contents of the posters in question were false to his knowledge. I

am unable to accede to this contention. The onus being on the petitioner to prove that the statements of fact contained in these posters were false to the knowledge of Chaudhri Multan Singh, if his evidence is not trustworthy then a mere denial contained in Chaudhri Multan Singh's written statement would hardly be sufficient to establish that the statements were false to his knowledge or that he did not believe them to be true. In this connection I have undoubtedly been influenced by Exhibits R. 1, R. 3, and R. 4. These documents clearly show that the petitioner does not possess very creditable or enviable antecedents and the facts contained in the posters were in fact the subject-matter of a representation made by 32 persons of Gharaunda, to the Deputy Commissioner, Karnal, in August, 1956. The statement of Shri Rulia Ram as his own witness has not contributed, in the least, in removing the unfavourable impression created on my mind, about his reputation or his personal character or conduct. If anything, his own testimony has strengthened those unfavourable impressions. I would thus also uphold the finding of the learned Tribunal on this part of the case.

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The counsel for the petitioner then addressed us on issues Nos. 9 and 10 which relate to the corrupt practice contained in section 123(5). Two tonga drivers, P.W. 5, and P. W. 6, have been produced in support of this corrupt practice. In addition, P.W. 29 Tika Singh has stated that Chaudhri Multan Singh had disclosed to him that he had engaged two or three tongas belonging to Daryai Lal and Mulkh Raj for carrying the voters. Rulia Ram's own statement has also been relied upon this connection by the counsel. I am afraid, it is not possible to place any reliance on the vague and most unprecise statement of these

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witnesses. Tika Singh's statement regarding the alleged admission of Multan Singh appears to be hardly natural or plausible. In any case, it is not at all safe to set aside elections on the testimony of such witnesses. It is hardly necessary in this connection to refer to R.W. 11 who was produced in rebuttal.

The counsel next took up issue No. 11 which deals with the corrupt practice contained in section 123(1) of the Representation of the People Act. This corrupt practice deals with "bribery" which is described as any gift, offer or promise by a candidate or his agent or by any other person, of any gratification to any person whomsoever with the object, directly or indirectly, of inducing :—

(a) \* \* \* \* \*

(b) an elector to vote or refrain from voting at an election or as a reward :—

(i) \* \* \* \* \*

(ii) an elector for having voted or refrained from voting.

I have reproduced only that portion of the section which is relevant for our purposes. The counsel has contended that Chaudhri Multan Singh had paid a sum of Rs. 200 to Chandgi Ram P.W. 14 for securing the Bairagi votes and this sum constituted a contribution towards the construction of a Chaupal for the Bairagis in Mauza Goli. P. W. 14, P.W. 15 and P.W. 16 are the three witnesses, on whose testimony, reliance has principally been placed. It is, however, significant that no writing or entry in any account-book or note-book is forthcoming with respect to this payment Chandgi Ram P.W. 14, who is said to have received the amount directly from Chaudhri Multan Singh made it over to Kashi Ram Sarpanch P.W. 16. This

Kashi Ram has come in the witness-box and has deposed that the Chaupal in question was intended for 40 or 50 houses only, belonging to Bairagis of Nain and Gathwala *gots*. He has further deposed that their Panchayat had decided that Rs. 25 per every male should be charged from a well-to-do Bairagi towards the cost of its construction. He has also stated that about 4 or 5 thousand rupees were collected in this account. If that is so, then one would naturally have expected some kind of an account evidencing or recording the contributions made by the various donors in this account. In fact, Kashi Ram has stated that he had been writing the accounts on a paper and that when the Chaupal was completed, then he gathered his brotherhood and explained the accounts to them. No accounts have, however, been produced in the present case. In re-examination an attempt was made to secure an explanation from Kashi Ram for their non-production when he stated that the paper on which the accounts had been maintained were torn off after they had been explained to the brotherhood. Dhanpat Ram P.W. 15 has, however, contradicted P.W. 16 in this connection and has stated that the Chaupal is still incomplete. This statement does come into direct conflict with that of Kashi Ram who has expressly stated that on the completion of the Chaupal he gathered the brotherhood and explained the accounts to them and then destroyed the account. It is difficult for me to place implicit reliance on the testimony of these three witnesses, and I do not think it is safe to base a finding of the commission of corrupt practice of bribery on this kind of unimpressive and inconsistent evidence. The counsel for the respondent also made a faint-hearted attempt to contend that in law the allegations contained in the petition do not amount to bribery. It is not possible for me to uphold this contention. It

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is true that *bona fide* charity or gift may be permissible but if charitable donation or gift takes a subtle form of bribery or if bribery is sought to be concealed in the guise of charity, then it is not possible to consider it to be unobjectionable. Whether or not a charity or a gift is innocent, the time and the circumstances have a very important bearing. Charities and gifts to voters at the time of elections invite strong suspicions and candidates would be well-advised to avoid them at election times. In the instant case, however, if the allegations are established then they cannot be taken out of the definition of "bribery". But, as stated above, I am inclined to hold that the allegations contained in the petition have not been proved. The contention that the respondent did not in fact secure the Bairagi votes can be dismissed on the ground that merely because bribery has not borne fruit is wholly immaterial, and even an attempt to bribe falls within the mischief. In view of this discussion, I must affirm the conclusion of the Tribunal on issue No. 11 as well.

Lastly the counsel for the appellant has contended that the decision of the Tribunal under issue No. 12 is incorrect. He has taken us through the evidence of the witnesses on the question of late starting of the polling and its early closure. It is true that, as stated by Shri Puran Singh, Senior Superintendent of Police, P.W. 1, and Mian Bhag Singh, Deputy Commissioner, Karnal, P.W. 2, in village Arainpura the polling started about 10 or 15 minutes late, after the schedule time, because there was something wrong with the ballot boxes. In my opinion, however, in order to succeed on the basis of this allegation it is to be established that on account of this irregularity or illegality the result of the election has been materially affected,—*vide* section 100(1)(d)(iv). On the present record

there is no reliable material to come to the conclusion that by delay of 10 or 15 minutes in starting the polling any voters were prevented from exercising their electoral right. As a matter of fact, it has been contended by the learned counsel for the respondent, that unless it is shown that by this late starting of polling 224 voters who wanted to vote for Rulia Ram were prevented from casting their votes in his favour and they voted for Multan Singh, the election cannot be considered to be materially affected and cannot be set aside on this ground. It may be remembered that Rulia Ram had lost the election by a margin of 224 votes. On the present record, however, it is not possible for me safely to find that any voters was prevented from casting his vote on account of delay of 10 or 15 minutes in starting the polling. In so far as the early closure is concerned, the evidence led by the petitioner-appellant is most unsatisfactory and is hardly worthy of credence. The witnesses have deposed that when they complained to the Polling Officer concerned he told them that it was 4 p.m. and that the time fixed had expired. No complaint in this connection is stated to have been contemporaneously or even later made by any voter or candidate to the higher authorities. In my view, an irregularity or illegality of the kind suggested by the petitioner-appellant, in the present political consciousness would, generally speaking, have immediately brought forth a number of complaints from the candidates, the political parties and the electors, etc., to the higher authorities; absence of such complaints is thus not without significance. I have, therefore, no hesitation in holding that the allegations which are the subject-matter of issue No. 12 have not been satisfactorily proved on this record.

It is well-settled that an election is not to be lightly set aside. It is true that purity of election

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is the first priority in all democratic states, but at the same time it must not be forgotten that setting aside of elections affects the whole constituency, thus before an election is set aside, the tribunal must be fully satisfied that the impugned election has actually been affected by the alleged corrupt practices. Suspicions or surmises or mere possibilities are not enough. I am not unmindful of the observations of A. K. Sarkar, J., in *Dr. Y. S. Parmar v. Hira Singh Pal and another* (1), that *Mens rea* or criminal intention is not necessary to establish under the Indian Law relating to corrupt practices, but, in my view, it does not mean that the charges of corrupt practices can be held established without being proved beyond the possibility of a reasonable doubt. The test in weighing the evidence led in such cases is generally similar to the one applied in criminal trials : See *Balwant Rai Tayal v. Bishan Saroop* (2).

For the reasons given above, this appeal fails and is dismissed with costs.

FALSHAW, J.—I agree.

B.R.T.

#### REVISIONAL CIVIL

Before A. N. Bhandari, C. J.

MUKH RAM, *Petitioner.*

*versus*

SIRI RAM AND OTHERS,—*Respondents.*

**Civil Revision No. 506 of 1958.**

1959

May, 26th

*East Punjab Urban Rent Restriction Act (III of 1949)—Section 13(2)(i) proviso—Scope of—“Hearing”—Meaning of—Tender of arrears of rent, etc.—Whether must be to the landlord—Challan for deposit made on the day of first*

(1) A.I.R. 1959 S.C. 244

(2) F.A.O. 164 of 1958